

ANALYSIS OF AMENDED BILL

Author: Leach Analyst: Paul Brainin Bill Number: AB 2026
Related Bills: See Legislative History Telephone: 845-3380 Amended Date: 05-06-98
Attorney: Doug Bramhall Sponsor: _____

SUBJECT: Child Care Credit/"The Family Choice Child Care Act of 1998"

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE ALL THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced February 18, 1998.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

This bill would allow a credit equal to the greater of 30% of the federal credit allowed under Internal Revenue Code (IRC) section 21 for certain household and dependent care services necessary for gainful employment or \$150 for each qualifying individual.

SUMMARY OF AMENDMENT

The May 6, 1998, amendment made changes to reflect the author's intent to allow this credit as a percentage of and pursuant to the rules of section 21 of the IRC.

EFFECTIVE DATE

This bill would be effective immediately as a tax levy, but specifies it would be operative for each taxable year beginning on or after January 1, 1999.

LEGISLATIVE HISTORY

AB 90, AB 183 (95/96), AB 26, AB 66, SB 39 (93/94)

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
___X___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO _____

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department/Legislative Director Date
G. Alan Hunter 5/14/98

Agency Secretary Date

By: Date:

SPECIFIC FINDINGS

Existing federal law (IRC section 21) allows a credit against tax of 20%-30% (depending on the taxpayer's adjusted gross income) of employment-related costs of care for a qualifying individual. A qualifying individual is defined as a dependent of the taxpayer who is under the age of 13 or a dependent or spouse who is physically or mentally unable to care for him- or herself. Employment-related expenses are defined, generally, as those expenses incurred to enable gainful employment.

Existing federal law limits the amount of employment-related expenses incurred during a taxable year to \$2,400, if there is one qualifying individual, or \$4,800, if there are two or more qualifying individuals with respect to the taxpayer for that taxable year.

California had a similar credit based upon expenses for household and dependent care services necessary for gainful employment. That credit was a percentage of the amount of credit allowed by section 21 of the IRC; the percentage was based upon the taxpayer's AGI and ranged between 15% and 30%, inclusive. That credit provision was repealed by its own terms December 1, 1993.

This bill would allow a credit equal to the greater of 30% of the credit amount allowed by section 21 of the IRC or \$150 per qualifying individual for child care expenses incurred for each qualifying individual, as defined by section 21 of the IRC.

This bill would allow a carryover of any portion of this credit that exceeds net tax until the credit is exhausted.

Policy Considerations

This credit would not have a sunset date. Credits generally have sunset dates to allow periodic review by the Legislature.

This bill would not cap the number of dependents eligible for the credit, so that there is no clear upward cap on the amount allowable as a credit under this section, based on \$150 per qualifying individual. Under the federal credit, the maximum credit amount is limited by the amount of expenses that may be taken into account.

Implementation Considerations

This bill does not define child care expenses nor does section 21 of the IRC. The term used in IRC section 21 is "employment-related expenses," which would enable the department to use federal law interpretations to determine whether expenses qualify for this credit.

The addition of this credit would cause numerous revisions to forms and booklets that could be implemented during the normal annual forms update cycle.

Because of the tentative minimum tax limitation on special credits, taxpayers claiming this credit could be forced to file a long form, Form

540, which may be confusing to taxpayers used to filing the short form, Form 540A.

This bill would allow the credit to be carried over indefinitely. Recently enacted credits have contained a limited carryover since credits typically are exhausted within eight years.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

Revenue losses under the Personal Income Tax Law (PITL) are estimated as follows:

Effective on or After January 1, 1999 Assumed Enactment After June 30, 1998 (millions)		
1998-9	1999-0	2000-1
(\$15)	(\$145)	(\$150)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

Revenue losses under the PITL would depend on the number of taxpayers who have qualified individuals with employment-related expenses and available tax liabilities to apply this credit against.

The above estimates were based on the department's personal income tax model projections. Special programming was done to reflect the federal law credit (for a percentage of the household and dependent care expenses necessary to be gainfully employed, pursuant to IRC section 21). It is estimated that this credit would benefit approximately 600,000 filers for the 1999 tax year.

The estimate for the first fiscal year above includes only 10% of the 1999 tax year impact. This impact results from reduced estimated tax and withholding payments.

BOARD POSITION

Pending.